

**S/N 10/038,766**  
**Our Ref. No. 659-919**  
**Client Ref. No. 16936**

### **REMARKS**

Applicants gratefully acknowledge the Examiner's statement in the Office Action mailed December 11, 2007 that claims 17-21, 27 and 28 were allowed. Applicants have added new claims 29-32 to depend from allowed claim 21. Applicants have not added any new subject matter by way of this amendment (see similar claim recitations in claims 2 and 6-8). Accordingly, claims 29-32 also are allowable and notice to that effect is earnestly solicited.

#### **Remarks About the Prior Art Rejections:**

The Examiner has rejected claims 2, 3, 6 and 24-26 under 35 USC 103 as being obvious over USP 5,830,296 to Emenaker in view of GB 942,214 to Chavannes and USP 6,319,342 to Riddell. Applicants respectfully submit that all of the claims are allowable for the reasons set forth below.

#### **Claims 2, 3, 6-8 and 25-26:**

As explained in the prior office action, claim 3 previously recites that the "recessed portion has a fixed, non-changeable generally *hour-glass shape*." As defined in Applicants' Specification, a "generally hour-glassed shape" refers to the portion being "generally wider at its end portions 72, 74 than at its central portion 76" (Specification at 10, lines 17-19, Figure 5A). Notwithstanding this prior explanation and definition, the Examiner asserts in the outstanding Office Action that the recitation of the term "generally" somehow causes the subsequent recitation of an "hour-glass shape" to read on the shape disclosed in Emenaker, which shape is exactly the *opposite* of an hour-glass shape (Office Action at 3-4). In order to expedite the prosecution, Applicants have cancelled the relative term "generally." Applicants submit that this amendment has not narrowed the scope of the claim, but merely clarifies the terminology thereof. As acknowledged by the Examiner, Emenaker does not disclose or suggest an "hour-shape" per se (Office Action at 4).

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The Examiner also acknowledges that Emenaker does not teach “at least one aperture in the outer surface of either of bodies 52 and 54 and extending through the respective body for communication with a vacuum source” (Office Action at 3). To satisfy this deficiency, the Examiner asserts instead that it would have been obvious to incorporate a roller 15 with vacuum openings 71 as disclosed in Chavannes. Applicants respectfully disagree.

At the outset, Applicants want to clarify that they were not previously arguing that Emenaker failed to disclose an assembly for “transporting and applying a discrete part to a moving web” (Office Action at 4 and 8), notwithstanding that such a statement is true. Rather, Applicants simply submitted that there was (and is) no suggestion to modify Emenaker to include a vacuum source. Indeed, Applicants respectfully submit that Emenaker actually teaches *away* from the incorporation of any such vacuum source, as taught by Chavannes or any other reference.

At the outset, the entire premise of Emenaker is directed to allowing for perimeter sealing *and* embossing in one operation, rather than separate operations (Emenaker at Col. 5, lines 57 to Col. 6, line 9 (“It was originally believed that these two processes were too incompatible to combine together because the heat and pressure needed to form the perimeter seal 40 were much too high for an embossing process, and attempting to form embossments under these conditions would burn holes into the absorbent article”)). As such, Emenaker is expressly directed to a system where the components are fed through a “nip,” such that the sealing and embossing can be effected, but without adhering the components to one or the other of the *heated* rolls, which prolonged exposure can adversely affect the materials. In particular, Emenaker expressly discloses that:

The components for the absorbent article are preferably provided in the form of a *continuous web or laminate* (except for [certain internal elements that] are in discontinuous patches or pieces). *When the components are supplied to the apparatus 50 shown in FIG. 3, the*

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*components will be arranged in a laminate* with the web of topsheet material facing downward. The assembled components are *then fed into the nip 80* between the die roll 52 and the anvil roll 54. *When the components* of the absorbent article are *fed into the nip 80* between the die roll 52 and the anvil roll 54, the heated sealing member 56 forms a perimeter seal 40 at least partially around the perimeter of at least some of the components, and the raised portions 62 on the embossing surface 60A simultaneously form a pattern of embossments 34 into at least some of the components” (Emenaker at Col. 5, lines 41-56) (emphasis added).

In this way, the rollers of Emenaker act on *a web passing through the nip 80* between the rollers -- *not discrete elements* being carried by a carrier body, or even a web being carried by, or wrapped around, one or the other of the rollers. As such, Emenaker does not disclose or suggest a need or any desirability of having vacuum apertures, whether taught by Chavannes or any other reference, formed in one or both of the rollers. Indeed, if a vacuum were applied to the rollers of Emenaker, the web would adhere to one or both of the heated rollers rather than passing *through* the nip.

Applicants further submit that Emenaker and Chavannes, individually and collectively, teach away from a combination thereof. In particular, Chavannes is directed to embossing “plastics,” and in particular to forming laminate structures so as to seal the embossed portions (Chavannes at lines 13-54; 65-80). In order to form the embossments, the plastic is preheated such that *it can be forced into depressions in the roller 15 by a pressure roller* (Chavannes at lines 30-41). The plastic film is then retained in the depressions by way of the vacuum (Chavannes at lines 45-55). As such, Chavannes teaches, and requires, an *interference fit* between resilient pressure roll 68 and the embossing roller 15 (Chavannes at lines 37-52).

In contrast, Emenaker expressly discloses that “the die roll and the anvil roll 54 are preferably kept a *certain distance apart* to define a nip 80 between the rolls” (Emenaker at Col. 5, lines 25-35 (emphasis added) (distances of 0.025 inches and 0.015 inches are disclosed)). As such, Emenaker teaches against incorporating the

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roll and vacuum combination of Chavannes, and any such combination would render Emenaker unsatisfactory for its intended purpose (*see* MPEP 2143.01). In this respect, it is important to remember that the Examiner must look at each of Emenaker and Chavannes, and their teachings, in their respective entireties, rather than selecting individual components with the benefit of hindsight analysis (MPEP 2143.01).

It also is important to note that Applicants are not arguing that the presently pending *claims* recite rollers that are separated (Emenaker) or have an interference fit (Chavannes), or which may or may not carry a web. Rather, Applicants are simply arguing that the Examiner has failed to make out a prima facie case of obviousness due to the lack of any motivation or suggestion to combine Emenaker and Chavannes.

In the same vein, Applicants note that Emenaker discloses an anvil insert 70 having “a substantially smooth surface” (Emenaker at Col. 4, lines 66-67; FIGS. 3 and 5). As such, the embossments are formed in the absorbent article of Emenaker by raised portions 62 interacting with the smooth anvil insert 70 (*see* Emenaker at Col. 4, lines 23-25), which is exactly the opposite of an interference fit roll 68 forcing a material into a depression 67 wherein the material is held by a vacuum as taught by Chavannes. Moreover, as explained above, Emenaker teaches against incorporating interfering rolls. Accordingly, Emenaker does not disclose, and teaches against, using *depressions* to form embossments and there is no suggestion, therefore, to incorporate the vacuum of Chavannes, which is used *only* to hold the material in the depressions.

For at least these reasons, there is no suggestion to modify Emenaker as suggested by the Examiner, and the claims should be passed to allowance.

**Claim 24:**

Claim 24 has been rewritten in independent form to include all of the limitations of claim 3, from which it previously depended. Accordingly, claim 24 is patentable for at least the same reasons set forth above.

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In addition, claim 24 further recites that the “at least one aperture is formed in said top portion of said outer surface and extends through said carrier body for communication with said vacuum source.” As applied by the Examiner, the top portion of Emenaker is formed by the *raised* portions 62 or the *raised* heated sealing surface 56 (Office Action at 2). Simply put, there is absolutely no suggestion to apply a vacuum through such *raised portions* in the first instance, and certainly not in view of Chavannes, which discloses that the vacuum passages are formed *only in the depressions* such that a plastic film 11 is “retained in the depressions 67 by vacuum” (Chavannes at lines 50-52). Indeed, Emenaker and Chavannes, even if improperly combined, do not disclose all of the recitations of claim 24 and the Examiner has therefore failed to make out a prima facie case of obviousness for this additional reason (MPEP 2143).

Accordingly, claim 24 should be passed to allowance for at least this additional reason.

**Claim 33:**

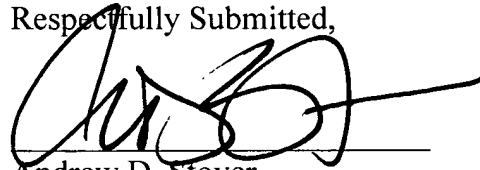
Claim 33 depends from claim 3 and is patentable for at least the same reasons set forth above. In addition, the Examiner noted in her reasons for allowance of claim 21 (Office Action at 7) that Emenaker does “not teach that bodies 52 and 54 rotate about an axis substantially normal to the bottom surface of portions 58 and 68 and it would *not have been obvious to a person of ordinary skill in the art* at the time the invention was made to have provided for such in Emenaker et al. modified in that Emenaker et al. teach[es] bodies 52 and 54 to rotate about the first axis parallel to the bottom surface of portions 58 and 68” (Office Action at 7) (emphasis added). As set forth in new claim 33, the “carrier body is rotatable about an axis substantially normal to a bottom surface of said recessed portion.” Accordingly, claim 33 should be passed to allowance for at least the same reasons.

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**Conclusion:**

For all of the reasons set forth above, all of the claims are in condition for allowance and notice to that effect is earnestly solicited. No fees are believed to be due in connection with this amendment. If for any reason this application is not considered to be in condition for allowance and an interview would be helpful to resolve any remaining issues, the Examiner is respectfully requested to call the undersigned attorney at (312) 321-4713.

Respectfully Submitted,



Dated: March 6, 2007

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